

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's Own Motion into Competition for
Local Exchange Service.

Rulemaking 95-04-043
(Filed April 26, 1995)

Order Instituting Investigation on the
Commission's Own Motion into Competition for
Local Exchange Service.

Investigation 95-04-044
(Filed April 26, 1995)

**ADMINISTRATIVE LAW JUDGE'S RULING
MEMORIALIZING DIRECTIVES ISSUED
AT THE PREHEARING CONFERENCE ON SEPTEMBER 12, 2003**

I. Introduction

This ruling memorializes the directives issued at the prehearing conference (PHC) held on Friday, September 12, 2003. The PHC was held to address procedural issues relating to the Federal Communications Commission (FCC) Triennial Review Order¹ provisions limited to proceedings to rebut the national finding that competitors are not impaired with respect to serving enterprise customers using loops at DS-1 capacity and above. At the PHC, no party expressed an intention to present a showing to rebut the FCC findings of no impairment, particularly in view of the limited 90-day period allotted for this purpose by the FCC Order.

¹ CC Docket Nos. 01-339, 96-98, 98-147.

Since no party expressed such an intention, the Commission will not proceed with preparing to rebut the FCC findings of no impairment with respect to enterprise customers served using loops at DS-1 capacity and above. The previous schedule to address impairment findings rebuttal set by Administrative Law Judge's ruling dated September 5, 2003, thus is cancelled and the scheduled evidentiary hearings are removed from the Commission calendar. In the absence of a rebuttal showing in this regard, under the FCC Order, a subsequent 90-day transition period is triggered during which competitive users of the existing facilities are to be moved to some other arrangement.

Parties at the PHC representing certain competitive carriers request that the focus of this phase of the proceeding be redirected to this transition process to negotiate and implement amendments to applicable interconnection agreements to implement the transition. As affirmed at the PHC, the request to redirect the focus of this phase of the proceeding to implementation is granted.

Consequently, parties shall be provided a period of time in which to negotiate with the incumbent local exchange carriers the terms and conditions of a template interconnection agreement amendment to address the transition implementation at issue under the 90-day provisions of the FCC Order. Parties are directed to file a joint status report in this proceeding on September 22, 2003, regarding when the initial meeting will occur to discuss contract renegotiations and identification of participants. Parties are directed to file a joint report in this proceeding on October 10, 2003, regarding status of negotiations and identifying any remaining disputed issues for which parties have not yet reached agreement and for which parties seek for the Commission to arbitrate or mediate a resolution.

A special service list shall be created exclusively for purposes of this phase of the proceeding relating to the renegotiation and transition process to

implement the provisions of the FCC Order relating to enterprise customers served by DS-1 capacity loops or higher. This special service list shall consist of parties that filed an appearance at the PHC on September 12, 2003, which is attached as an appendix to this ruling. Parties involved in this phase shall use the special service list for serving notice of the September 22 and October 10, 2003 status reports.

IT IS RULED that:

1. The previous schedule tentatively set by Administrative Law Judge's ruling dated September 5, 2003 is cancelled and evidentiary hearings tentatively set therein are taken off calendar.
2. Parties shall file a joint status report on September 22, 2003, identifying when the initial meeting will occur to discuss contract renegotiations as described above and identifying active participants.
3. Parties to the contract renegotiations shall file a joint status report on October 10, 2003, regarding status of negotiations and identifying remaining disputed issues for which parties have not yet reached agreement and for which parties seek for the Commission to arbitrate or mediate a resolution in connection with implementation issues as described above.
4. A special service list shall be created exclusively for purposes of this phase of the proceeding relating to the contract renegotiation transition process for carriers serving enterprise customers served by DS-1 capacity loops or higher.

This special service list shall consist of parties that filed an appearance at the prehearing conference on September 12, 2003, attached as an appendix to this ruling.

Dated September 19, 2003, at San Francisco, California.

/s/ THOMAS R. PULSIFER

Thomas R. Pulsifer
Administrative Law Judge

APPENDIX
SERVICE LIST FOR 90-DAY TRANSITION IMPLEMENTATION
PHASE OF THE PROCEEDING

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(END OF APPENDIX)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Administrative Law Judge's Ruling Memorializing Directives Issued at the Prehearing Conference on September 12, 2003 on all parties of record in this proceeding or their attorneys of record.

Dated September 19, 2003, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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